

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

No. C 11-03630 CRB

REGULO SIERRA,

**ORDER DENYING MOTION TO
REASSIGN**

Appellant,

v.

JANINA M. HOSKINS, Chapter 11 Trustee
in Bankruptcy,

Appellee.

On August 19, 2011, Appellant filed a one-page “Petition by Appellant to assign a [sic] another Judge to the case” (“Motion”). There are two means for disqualifying a district judge, either pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455. Since Appellant did not file an affidavit attesting to actual personal bias against him or in favor of another party as required by 28 U.S.C. § 144, the Court assumes the Motion is pursuant to § 455.

Under § 455(a), recusal may be had where the judge’s impartiality may reasonably be questioned or under § 455(b) where the judge “knows that he . . . has [an] interest that could be substantially affected by the outcome of the proceeding.” 28 U.S.C. § 455(b)(4).

Here Appellant identified two potential grounds for disqualification in his motion: (1) a conflict of interest; and (2) prejudice due to other appeals in the Sophie Ng bankruptcy case. First, Appellant provides no explanation or allegations to support a conflict of interest. He was not a party in other appeals in the Sophie Ng case, nor does he state he has a vested

1 interest in those actions. Second, adverse rulings in the prior appeals “do not constitute the
2 requisite bias or prejudice” to support disqualification. United States v. Azhocar, 581 F.2d
3 735, 739 (9th Cir. 1978); see also Berger v. United States, 255 U.S. 22, 34 (1921). As
4 Appellant fails to identify any grounds for disqualification, nor does the Court discern any
5 such grounds, the Motion is DENIED.

6 **IT IS SO ORDERED.**



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9 Dated: September 8, 2011
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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE